

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1222 of 1998

in

SPECIAL CIVIL APPLICATION No 7530 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

M T SOLANKI

Versus

STATE OF GUJARAT

Appearance:

NANAVATY ADVOCATES for Appellant
MR ANANT S DAVE for Respondent No. 1

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE A.L.DAVE

Date of decision: 04/12/98

ORAL JUDGEMENT (Per A.L. Dave, J.)

1. The present appeal challenges the order passed by the learned Single Judge in Special Civil Application No.

7530 of 1998 on 29th September, 1998, vacating ad-interim relief staying the implementation of the order impugned in the said Special Civil Application. The order runs as under :-

"Mrs. Sangita Pahwa, learned advocate for the petitioner states that the petitioner has taken over the papers from her with a view to engage another advocate and has also obtained No Objection on the Vakalatnama. She further states that the petitioner was in fact informed that the matter will be listed for order's on 28.9.98. When the matter is called out, neither the petitioner nor any advocate is present. In view of this, ad-interim relief staying the implementation of the impugned order of transfer is vacated."

2. We have heard Mr. N.D. Nanavati and Mr. Anant S. Dave for the parties.

3. The following events need to be noted:

(1) On 28th September, 1998 - Matter was listed on admission board No.2 at Sr. No.60. The matter did not reach.

(2) On 28th September, 1998 - The appellant-original petitioner changed his advocate and the new advocate filed his appearance in the Court after obtaining 'No Objection' from the original advocate for the petitioner.

(3) On 29th September, 1998, the matter was not listed on board nor was the name of the new advocate shown on the board and the impugned order was passed.

4. In light of the happenings and in view of the fact that the State has expressed willingness to recall the original order challenged in the Special Civil Application, this appeal does not survive.

5. However, it is clarified that vacation of the ad-interim relief granted earlier in favour of the appellant-petitioner by the impugned order, will not have any adverse effect in deciding the application of the petitioner for sanction of leave and the concerned authorities shall take appropriate decision in accordance with rule/law.

6. With the above observations, the appeal stands disposed of. No costs.

[C.K. THAKKAR, J.]

[A.L. DAVE, J.]

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